INVESTIGATIVE SUMMARY

TYPE INCIDENT: DEPUTY INVOLVED SHOOTING (HIT)
IAB FILE: SH #2087112
URN: 003-07797-2199-013

DATE / TIME / LOCATION

Thursday, May, 01, 2003
0019 hours
[redacted] East 58th Street, Los Angeles 90011

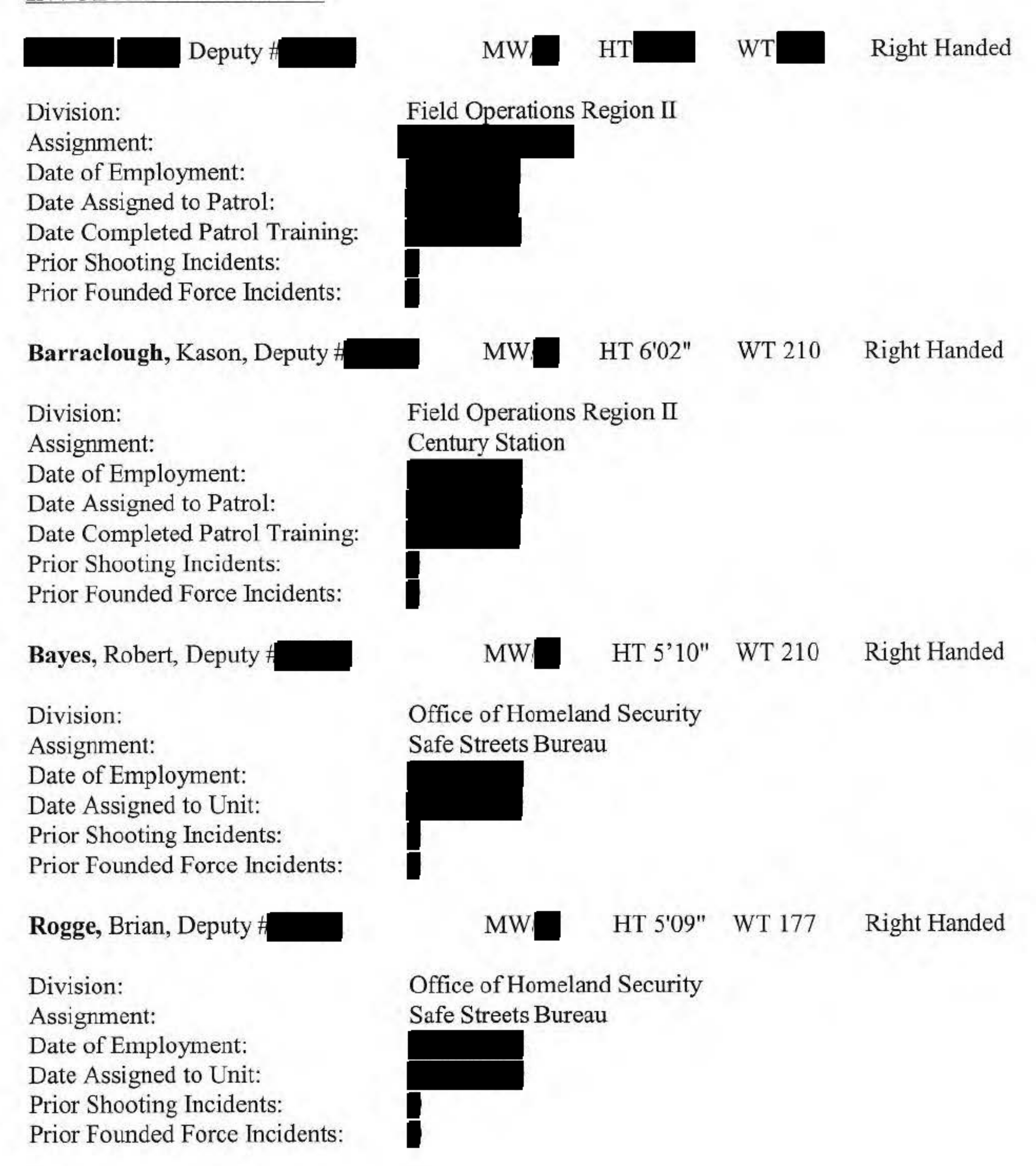
SYNOPSIS

On May 1, 2003, Deputies [redacted] Kason Barraclough, Robert Bayes and Brian Rogge were conducting a vehicle theft investigation. They discovered two individuals inside a stolen vehicle. While they were attempting to detain the two suspects, Suspect Macario Martinez drove the car at and struck Deputy [redacted] Deputy [redacted] was forced to jump on the hood of the car, then fell from the hood of the car as Suspect Martinez continued to drive forward, directly toward Deputy [redacted] Fearing for his life, Deputy [redacted] shot at Suspect Martinez. The other deputies also shot at Suspect Martinez in an attempt to stop him from assaulting Deputy [redacted] with the vehicle.

Suspect Martinez was shot several times and pronounced dead at the scene. The passenger of the vehicle, Suspect Julio Nuno, who was admittedly involved in the vehicle theft/stripping was also shot. He was transported to and treated at Martin Luther King Hospital for gunshot wounds to his left bicep and groin area.

Internal Affairs Sergeants Larry Gregg and John Harris responded to the area with Lieutenant Bennett Seno and conducted a review of the incident. Office of Independent Review was notified and Ben Jones responded.

INVOLVED PERSONNEL



[redacted] Deputy #[redacted] MW[redacted] HT[redacted] WT[redacted] Right Handed

Division:	Field Operations Region II
Assignment:	[redacted]
Date of Employment:	[redacted]
Date Assigned to Patrol:	[redacted]
Date Completed Patrol Training:	[redacted]
Prior Shooting Incidents:	[redacted]
Prior Founded Force Incidents:	[redacted]

Barraclough, Kason, Deputy #[redacted] MW[redacted] HT 6'02" WT 210 Right Handed

Division:	Field Operations Region II
Assignment:	Century Station
Date of Employment:	[redacted]
Date Assigned to Patrol:	[redacted]
Date Completed Patrol Training:	[redacted]
Prior Shooting Incidents:	[redacted]
Prior Founded Force Incidents:	[redacted]

Bayes, Robert, Deputy #[redacted] MW[redacted] HT 5'10" WT 210 Right Handed

Division:	Office of Homeland Security
Assignment:	Safe Streets Bureau
Date of Employment:	[redacted]
Date Assigned to Unit:	[redacted]
Prior Shooting Incidents:	[redacted]
Prior Founded Force Incidents:	[redacted]

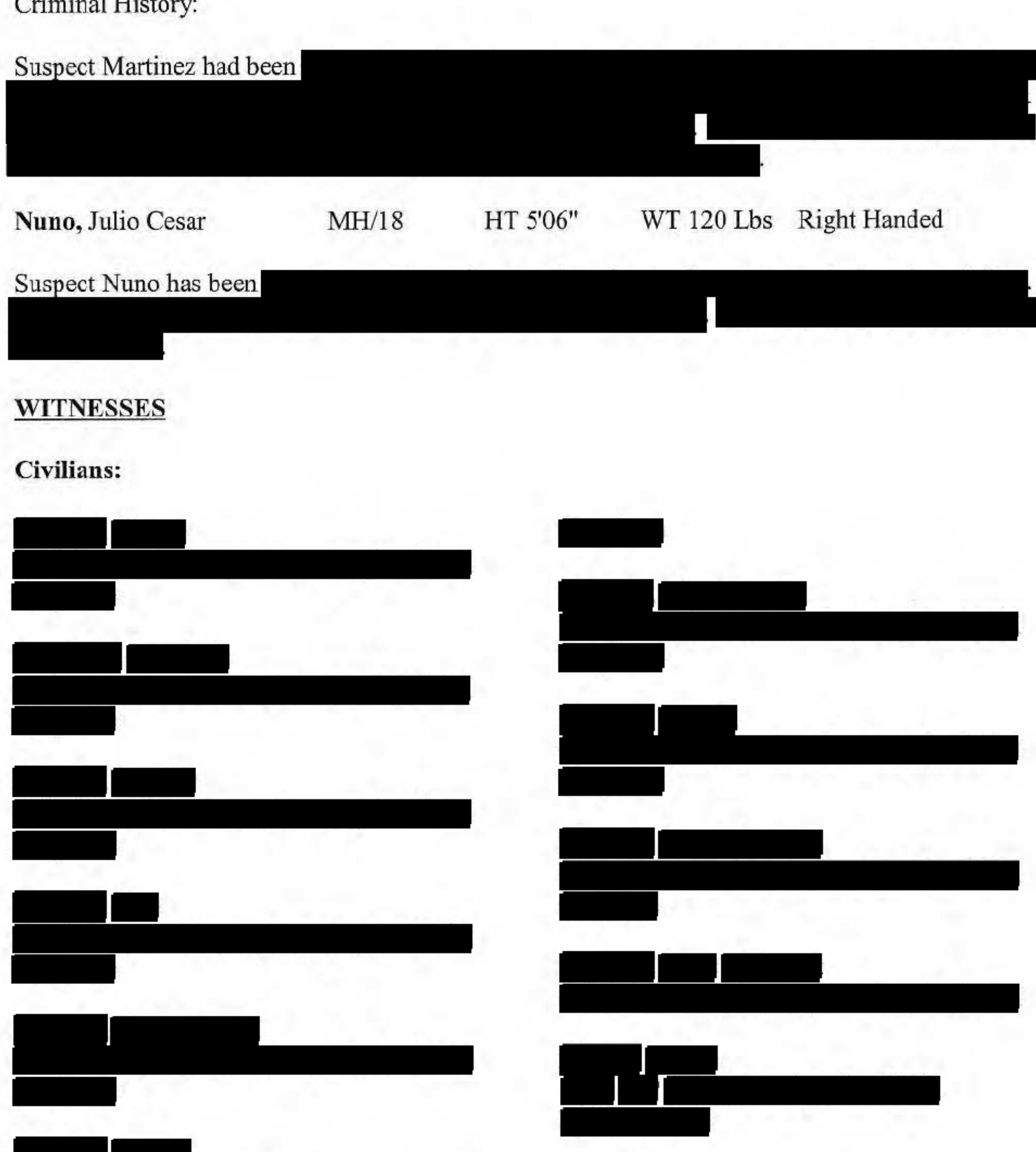
Rogge, Brian, Deputy #[redacted] MW[redacted] HT 5'09" WT 177 Right Handed

Division:	Office of Homeland Security
Assignment:	Safe Streets Bureau
Date of Employment:	[redacted]
Date Assigned to Unit:	[redacted]
Prior Shooting Incidents:	[redacted]
Prior Founded Force Incidents:	[redacted]

SUSPECT

Martinez, Marcario MH/20 HT 5'10" WT 150 Right Handed

Criminal History:



Suspect Martinez had been [redacted].

Nuno, Julio Cesar MH/18 HT 5'06" WT 120 Lbs Right Handed

Suspect Nuno has been [redacted]

WITNESSES

Civilians:

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

EVIDENCE:

The following items were recovered at the scene.

- Visa card, located on the south curbline 18 feet west of the suspect's vehicle
- (8) Compact discs, either on the street or in and around other vehicles parked on the street
- (8) Compact discs inside suspects' vehicle
- (19) Expended shell casings
- (6) Bullet fragments or copper jackets, recovered from suspects' vehicle
- (2) Copper jackets, recovered from the street
- (4) Bullet fragments on street
- (1) Bullet fragment recovered from under Suspect Martinez
- (1) Expended bullet(damaged), located inside suspects' vehicle
- "Crack" pipe, found in Suspect Martinez' pant pocket and placed on windshield of Kia, where it was later recovered.
- Bloody clothing from Suspect Nuno
- CHP-180 from Deputies [redacted] and Barraclough's radio car

IAB NOTE: All evidence recovered was documented on sketch by criminalists **(Refer to Exhibit A, page 96)**

WEAPONS USED BY DEPUTY PERSONNEL

Deputy [redacted]

Weapon: Beretta 9mm, serial #BER[redacted]
Rounds fired: 6

Deputy Barraclough

Weapon: Beretta 9mm, serial #BER[redacted]Z
Rounds fired: 7

Deputy Bayes

Weapon: Beretta 9mm, serial #BER[redacted]Z
Rounds fired: 4

Deputy Rogge

Weapon: Beretta 9mm, serial #[redacted]Z
Rounds fired: 2

WEAPONS USED BY SUSPECT

Suspect Marcario Martinez

Weapon: Assaulted Deputy [redacted] with the vehicle he was driving.

INJURIES

Deputy [redacted] sustained abrasions to both knees when he fell from the hood of Suspect Martinez' vehicle. He was treated at Charter Suburban Hospital for his injuries.

Suspect Martinez sustained three gunshot wounds. One to the left shoulder, entering from the left and traveling to the right. The second wound was to his left arm and the third was to his left armpit. All three bullets were traveling from left to right as they entered Suspect Martinez. Doctor Poukens conducted the post mortem and determined the cause of death to be multiple gunshot wounds to the torso.

Suspect Nuno was shot twice by the deputies. One shot was a through and through gunshot wound to his left bicep. The second was a gunshot wound to his groin. He was transported to Martin Luther King Hospital and treated by Doctor Enriquez for his injuries.

CRIMINAL CASE INFORMATION

Suspect Nuno

Court:	Juvenile Court, Dept. 260 (Compton
Charges filed:	10851 CVC, 487 (D) (1) PC
Date sentenced:	11/26/2003 (270 days jail, felony probation)
Investigator:	Century Detectives Schaap and Pfeiffer

LIGHTING AND WEATHER CONDITIONS

The incident occurred in the early morning hours. The area was illuminated by street lighting. Three lights were observed to be on and working in the area of the shooting.

EMPLOYEE STATEMENTS

Deputy [redacted] was interviewed on May 1, 2003, by Homicide Investigators Graves and Brown at Century Station. The interview was tape recorded. Attorney Mitchell Kander was present during the interview.

Deputy [redacted] said he was assigned to unit [redacted] He was assigned to work [redacted] hours and was driving a marked black and white radio car. He was wearing a Class A uniform. His partner was Deputy Barraclough.

Deputy [redacted] said he and Deputy Barraclough were at Tam's restaurant, located on 67th Street when they were contacted by [redacted], who told them his friend's car had been stolen. They arranged to meet [redacted] and the car's owner, [redacted], at their home to take a stolen vehicle report..

Deputy [redacted] said while taking information for the stolen car report, friends of the victim's (owner of the vehicle) called and said they had located the stolen car. Deputy [redacted] told the friend to give them updates via the telephone regarding the stolen car. Deputy [redacted] and his partner drove [redacted] and [redacted] to 58th Street. While en route, Deputy [redacted] coordinated other units toward the area to search for possible suspects and the stolen car.

Deputy [redacted] said when they arrived in the area, they drove eastbound on 58th Street and parked behind the stolen car, a white Honda. They exited their radio car and began looking for potential suspects since the caller had told them the Honda was being stripped. He observed a male exit from a vehicle parked in front of the stolen Honda. This male approached the deputies and told them that five male, Blacks had been stripping the Honda. He said the male blacks ran from the scene, westbound on 58th Street, toward Central Avenue.

Deputy [redacted] said Deputy Barraclough broadcast the information regarding the suspects on the L-Tac frequency. Deputy [redacted] said they disregarded the male Hispanic who had provided the suspect information, believing he was the friend who had called the victim and he (the male) apparently walked away.

Deputy [redacted] said he checked inside the stolen Honda. He saw that the stereo was missing from the interior and the lug nuts had been removed from the wheels. He also saw several compact discs on the ground. Inside a Buick parked two cars west of the stolen Honda, Deputy [redacted] saw more compact discs.

Deputy [redacted] said he and Deputy Barraclough began to believe that the male Hispanic they had initially contacted may have actually been involved in stripping the Honda. Deputy [redacted] said he directed Deputies Bayes and Rogge to check the area for the male Hispanic. Deputies [redacted] and Barraclough drove to Central Avenue but did not find this male Hispanic. They did contact two friends of the Honda's owner. These two told them that they knew where the male Hispanic went.

Deputies [redacted] and Barraclough continued looking while Deputies Bayes and Rogge returned to the location of the stolen Honda.

Deputy [redacted] said they were unable to locate the male Hispanic and returned to the area of the stolen Honda, driving eastbound on 58th Street.

Deputy [redacted] said as they arrived at the scene, he saw Deputy Bayes on the south side of the street, checking vehicles parked along the curb. Deputy Barraclough exited their radio car and Deputy [redacted] continued to drive, past the other radio car, stopping near the stolen Honda. His vehicle was facing eastbound with the front of his radio car pointing at the Honda's front.

Deputy [redacted] said he became aware that the other deputies were alerted to a black Kia parked along the south curbline. The Kia was parked south of and somewhat behind Deputy [redacted] s radio car. Deputy [redacted] said as he exited his radio car, he could not see any occupants in the Kia but the other deputies were apparently attempting to contact occupants inside the car.

Deputy [redacted] said he began walking across the street, around the rear bumper of his radio car. He decided to position himself on the passenger side of the Kia because Deputy Bayes was on that side of the Kia, by himself.

Deputy [redacted] said he decided to walk in front of the Kia, to Deputy Bayes' position. He said he intended to walk between the front bumper of the Kia and the rear bumper of an Astro van parked in front of the Kia. He said that what was occurring was not a traffic stop, the engine of the Kia was not running and that path would be the shortest and quickest route. Just as he got to the front, driver's side bumper area of the Kia, he heard the other deputies begin ordering the occupants to show their hands and come out of the vehicle. He said he did not notice if any of the other deputies had their guns drawn.

Deputy [redacted] said from his position he could see two people in the car, one in each of the two front seats. Their seats were both fully reclined and the driver was leaned over onto the passenger's lap. The driver looked up and in the direction of Deputy [redacted] simultaneously the engine started. The engine revved to high rpm's, the vehicle popped into gear quickly as the driver sat up and the vehicle lurched forward. Deputy [redacted] said he was now positioned directly in front of the driver's side of the car. He quickly decided to jump onto the hood of the vehicle to prevent himself from either being run over or pinned between the suspect vehicle and the Astro van. The forward motion of the suspect's vehicle pushed him up and onto the windshield. He yelled for the suspect to stop the car as he hit the windshield with his flashlight. Deputy [redacted] said he was wondering why the driver was trying to run him over.

Deputy [redacted] said as the suspect's vehicle maneuvered around the van's left rear-quarter panel and began an apparent u-turn, he jumped from the suspect's hood, landing off balance and scraping his knees. He said he heard shots being fired as he got to his feet as the suspect's car continued turning left toward him, he backed away from the car as he unholstered his gun. Believing he was about to

be run over by the suspect and fearing for his life, Deputy [redacted] shot directly at the driver, over the door frame and through the driver's window, to stop the driver from striking him. As he did so, he continually moved backwards, attempting to get away from the car. He said the suspect's vehicle was close enough for him to touch. As soon as he had moved away from the danger of being struck he ceased firing at the driver. He said he also recognized that the other deputies had stopped firing at the suspect vehicle.

Deputy [redacted] said the suspect's vehicle continued driving and turning left until it struck the white Honda across the street. The driver then reversed, retracing the same arc as when it left the curb. The vehicle struck the rear bumper of the Astro van and eventually stopped in nearly same position it had begun its movement from.

Deputy [redacted] said the suspect in the passenger seat began yelling for the deputies not to shoot. Deputy [redacted] approached the car and saw the driver laying on his seat, not moving. The passenger was curled up in the corner of the passenger seat.

Deputy [redacted] said he provided cover on the driver as Deputy Bayes checked the passenger for weapons and saw to his injuries. Deputy [redacted] radio was not working after his fall from the car but one of the deputies broadcast the request for paramedics and coordinated responding units.

Deputy [redacted] was interviewed on February 17, 2004, by IAB Sergeants Larry Gregg and Larry Landreth at Internal Affairs Bureau regarding specific tactical issues. Prior to the interview, Deputy [redacted] was provided an opportunity to read and sign the Force/Shooting Review Admonition. The interview was tape recorded.

IAB NOTE: Just prior to this interview, a walk through of the incident was conducted in the IAB parking lot, specifically designed to determine the deputies placement and movements during the shooting. Photographs were taken at various points during the walk through **(Refer to Exhibit C)**. In the pictures, Deputy [redacted] is wearing a long sleeve, Class A uniform.

Deputy [redacted] said he was unaware of occupants inside the suspect's car until he had walked to nearly the mid-point of the front bumper. He said the other deputies at the scene did not make him aware that the car was occupied.

Deputy [redacted] said he did not consider what was occurring as he stepped in front of the car a traffic stop situation. He said the car had not been pulled over and he and the other deputies had been checking the inside of all vehicles in the area. He believed the other deputies were looking inside the suspect's car for evidence and not actually attempting to detain individuals. He said the positioning of the other deputies, slightly behind the front doors of the vehicle, did not raise his suspicion that there were potentially occupants inside the car.

Deputy [redacted] said that as he fell from the hood of the car, he was off balance, stumbling backwards to create distance between himself and the suspect's car. He said there may have been a quicker path to remove himself from the danger, but he felt that in order to change directions he would have had to stop his momentum to gain his balance, thus allowing the suspect's vehicle to close the distance to him.

Deputy [redacted] said when he fired his rounds, he was standing approximately four feet from the driver's window. He was standing in front of the driver's side tire of the car, which was turned in the full left position. He described the position of his right (shooting) hand as being slightly across his body, right to left.

IAB NOTE: From his description of how he shot and the descriptions of the other deputies positions, Deputy [redacted] did not create a cross-fire when he shot his weapon **(Refer to photographs, Exhibit C)**.

Deputy [redacted] said that in hindsight he would not have crossed in front of the suspect's vehicle, forcing himself to jump on the hood of the suspect's vehicle to prevent himself from being pinned between the suspect's car and the van parked just in front of it.

Deputy Kason Barraclough was interviewed on May 1, 2003, by Homicide Investigators Graves and Brown at Century Station. The interview was tape recorded. Attorney Mitchell Kander was present during the interview.

Deputy Barraclough was Deputy [redacted] partner during this incident. Deputy [redacted] was the driver and he was the bookman. He was wearing a Class A uniform at the time of the shooting.

Deputy Barraclough's statement was substantially the same as Deputy [redacted] He added the following;

Deputy Barraclough said while driving to [redacted]' home, he advised other units of the stolen vehicle and its description. After learning the vehicle's location, he coordinated units to the area. He said he noticed Deputies Bayes and Rogge driving behind them as they drove onto 58th Street.

Deputy Barraclough said he formed the opinion that the male Hispanic who had exited the truck had scared the car-stripping suspects from the area. He said his assumption was that no suspects were still in the area.

Deputy Barraclough said he saw Deputies Bayes and Rogge checking parked cars in the area. They called him over to a parked vehicle where he saw the two suspects, pretending to be asleep in the front seats of the vehicle. He said he saw numerous compact discs and other property laying on their bodies. He said he was standing on the driver's side of the car with Deputy Rogge. Deputy Bayes was standing on the passenger side of the car, alone. He described their positioning as similar to that when a deputy conducts a traffic stop, slightly behind or at the front doors of the vehicle. He said

he now believed these two were involved in the taking or stripping of the white Honda.

Deputy Barraclough said he and the other deputies present began yelling at the suspects, identifying themselves and ordering them to show their hands. They were illuminating the interior of the car with their flashlights.

Deputy Barraclough said the suspect/driver kept his eyes closed but leaned forward and started the car. He heard the engine rev, even as the deputies continued to issue order for the two suspects to show their hands in an attempt to get them out of the car. He said the car's windows were rolled up but the suspects should have been able to hear him, Deputy Bayes and Deputy Rogge shouting.

Deputy Barraclough said the vehicle began to move forward and he heard a noise and saw Deputy [redacted] on the hood of the car. He said the suspect/driver continued pulling away from the curb, making a sharp left turn with Deputy [redacted] on the hood. He said the suspect/driver was either trying to drive away with Deputy [redacted] on the hood, attempting to run Deputy [redacted] over or trying to pin Deputy [redacted] to the van parked in front of his car. Deputy Barraclough said he realized that the faster the suspect drove, the more danger Deputy [redacted] was in. He believed the suspect was going to kill his partner. Deputy Barraclough began firing his gun at the suspect.

Deputy Barraclough said the suspect/driver continued to turn his vehicle to the left. The car was one quarter to halfway in the street when Deputy [redacted] fell off the hood. From Deputy Barraclough's description, Deputy [redacted] apparently fell off the car near the front, driver's side tire. Deputy Barraclough said Deputy [redacted] was stumbling backwards to avoid being struck by the suspect's car. Deputy [redacted] eventually moved away from the car and into a safe position. At that point, Deputy Barraclough stopped firing his weapon.

Deputy Barraclough described where he was when he began firing. From his description, he was initially near the front of the driver's window when the car began to move. He said he was forced to step back to avoid being hit by the car, indicating that he would have been close to the driver and firing perpendicular to and in front of Deputy [redacted]

Deputy Barraclough added that he initially intended to allow the suspect to drive away until he saw Deputy [redacted] on the hood of the car, either having been thrown there by being struck or having jumped onto the hood of the car.

Deputy Barraclough was interviewed on February 17, 2004, by IAB Sergeants Larry Gregg and Larry Landreth at Internal Affairs Bureau regarding specific tactical issues. Prior to the interview, Deputy Barraclough was provided an opportunity to read and sign the Force/Shooting Review Admonition. The interview was tape recorded.

IAB NOTE: Just prior to this interview, a walk through of the incident was conducted in the IAB parking lot, specifically designed to determine the deputies placement and movements during the shooting. Photographs were taken at various points during the

walk through **(Refer to Exhibit C)**. In the pictures, Deputy Barraclough is wearing a white tee shirt and jeans.

Deputy Barraclough said he does not remember either himself or another deputy warning Deputy [redacted] that there were occupants in the suspect's vehicle. He does not remember Deputy [redacted] indicating that he was aware that the car was occupied.

Deputy Barraclough said when the suspect vehicle began to move, he stepped back approximately two steps to avoid being struck by the car, which was making a hard left turn. He said he fired seven rounds as the car drove away. During each of these rounds fired, he was standing directly in front of the driver, looking at the driver's left shoulder area. He estimated that the car had moved approximately 10-12 feet from the time he fired the first round until he fired his last round. During that time, Deputy [redacted] had moved from the hood and was scrambling to move away from the car. Deputy [redacted] movements would have put him to the left of and slightly behind Deputy Barraclough.

Deputy Barraclough said Deputy [redacted] was on the hood of the suspect's car as he (Barraclough) was shooting. He said Deputy [redacted] was possibly holding on near the windshield. He said at no time was he firing in a direction that would create a cross-fire. He said he recognized that Deputy [redacted] was on the hood, Deputy Bayes was to his right, near the passenger side rear quarter-panel of the car and Deputy Rogge was to his right, near the driver's side rear quarter-panel of the car.

Deputy Barraclough said he does not know how Deputy [redacted] ended up on the hood of the suspect's car. He said he really didn't see that.

Deputy Robert Bayes was interviewed on May 1, 2003, by Homicide Investigators Graves and Brown at Century Station. The interview was tape recorded. Attorney Mitchell Kander was present during the interview.

Deputy Bayes was assigned to the Safe Streets Bureau, Gang Enforcement Team at Century Station. He was wearing a green polo shirt with shoulder patches imprinted on both sleeves, a Sheriff's Department emblem on the front and a large SHERIFF imprinted across the back of the shirt. He was also wearing Levis pants with a Sam Browne belt.

Deputy Bayes said he and his partner were flagged down by two male Hispanics at 67th Street and Central Avenue. The males advised him that their car had been stolen and they had found it at 73rd Street and Hooper Avenue. He said the two informants spoke very poor English and were hard to understand. Deputies Bayes and Rogge drove to 73rd Street and Hooper Avenue but did not locate the stolen car. The deputies returned to 67th Street and Central Avenue.

Deputy Bayes said he was advised by Deputy [redacted] that the stolen car, a white Honda, was at 58th Street and Central Avenue. Deputies Bayes and Rogge joined Deputies [redacted] and Barraclough on

Hooper Avenue and then followed them to 58th Street and Central Avenue. Deputy Bayes spotted the white Honda and confirmed it was the car that had been stolen by its license plate.

Deputy Bayes said he and Deputy Rogge exited their car and began checking the area for potential suspects. He said he also saw some stolen property inside a car parked on 58th Street. He notified Deputy Barraclough of this discovery.

Deputy Bayes said he continued his search of the area, while Deputy Barraclough continued gathering information for his report. He began looking inside other cars on the street and underneath them for evidence. He said he spotted two individuals inside a blue car (the Kia). He said this startled him because the deputies had been at the scene for several minutes and he believed the two were trying to avoid detection by laying on the front seats while they were in the fully reclined position. The passenger in the car had compact discs and stereo equipment on his lap. The two suspects were acting as if they were asleep.

Deputy Bayes said he motioned to Deputies Barraclough and Rogge to come to his position. He told them that two suspects were inside the car. He believed Deputy [redacted] was still in his radio car. Deputy Bayes took a position at the passenger side of the car while Deputies Rogge and Barraclough positioned themselves on the driver's side. Deputy Bayes approached the car to ascertain if the suspects were, in fact asleep. He said he believed the two were in possession of stolen property from the white Honda. He wanted the two to exit the car to conduct an investigation and see if the victim/witnesses recognized the two. He did not consider the situation safe because the two had not been checked for weapons. He said he later learned that the car the two suspects were in was stolen also.

Deputy Bayes said he and the other deputies were positioned as if they were conducting a traffic stop, slightly behind or at the rear of the front windows. Once in position, Deputy Bayes saw Deputy [redacted] walking toward the car to get in a position on the passenger's side. He said the Kia was parked about a foot and a half from the rear bumper of an Astro van.

Deputy Bayes said they began to knock on the windows and illuminate the interior of the Kia with their flashlights. He said both somewhat sat up, the passenger suspect (Nuno) looking toward him. Deputy Bayes watched as the driver reached toward the ignition and started the car. The engine accelerated and the vehicle surged forward. Deputy Barraclough said Deputy [redacted] was propelled onto the hood of the Kia and was pressed against the windshield. He said he was unsure if the vehicle had struck Deputy [redacted] or if Deputy [redacted] had jumped onto the hood.

Deputy Bayes said he watched as Deputy [redacted] rolled off the hood and onto the middle of the street. Deputy [redacted] jumped quickly to his feet but the vehicle continued to move forward. Fearing that the vehicle would strike Deputy [redacted] Deputy Bayes began firing his weapon. He said as he fired, he noticed that Deputy [redacted] was near the front, driver's side fender of the Kia and another deputy standing to his left. He said he was not sure if he fired while Deputy [redacted] was still on the hood or on the ground, just getting up. He did say he was in fear for Deputy [redacted]

life. He added that he believed the suspect was attempting to flee the scene and would run people over who got in his way.

Deputy Bayes said the Kia continued its left turn, striking the white Honda. It then reversed, stopping close to where it had initially began moving from. He said by the time the vehicle began to move in reverse, all deputies had ceased the firing of their weapons.

Deputy Bayes said that after the shooting, he heard Deputy Rogge broadcast the shooting had occurred and their position.

Deputy Bayes was interviewed on February 17, 2004, by IAB Sergeants Larry Gregg and Larry Landreth at Internal Affairs Bureau regarding specific tactical issues. Prior to the interview, Deputy Bayes was provided an opportunity to read and sign the Force/Shooting Review Admonition. The interview was tape recorded.

IAB NOTE: Just prior to this interview, a walk through of the incident was conducted in the IAB parking lot, specifically designed to determine the deputies placement and movements during the shooting. Photographs were taken at various points during the walk through **(Refer to Exhibit C)**. In the pictures, Deputy Bayes is wearing a green Sheriff's polo shirt and levis.

Deputy Bayes said he does not recall anyone indicating to Deputy [redacted] that the car was occupied. He said Deputy [redacted] did not indicate that he was aware that the car was occupied.

Deputy Bayes said when he fired his rounds, he was standing at the passenger side, rear quarter-panel of the suspect's car. He described his angle of fire downward, toward the center of Suspect Martinez' back. He estimated that if the shots had traveled through the car they would have exited the car through the floorboard, in front of Suspect Martinez.

Deputy Bayes said at no time did he feel that he was creating a cross-fire. He said as the car continued away from him and the angle of his firing began to move toward Deputies [redacted] and Barraclough. He said approximately the same time, Deputy [redacted] had removed himself from the danger of being struck by the car.

Deputy Brian Rogge was interviewed on May 1, 2003, by Homicide Investigators Graves and Brown at Century Station. The interview was tape recorded. Attorney Mitchell Kander was present during the interview.

Deputy Rogge said substantially the same as Deputy Bayes. He added that all four deputies left 58th Street, looking for two male Hispanics. Deputies Rogge and Bayes located two of the Hispanics looking for the stolen car, but neither he nor Deputy Bayes speak Spanish. Deputies [redacted] and Barraclough talked to the two as he and Deputy Bayes returned to 58th Street.

Deputy Rogge said Deputy [redacted] was parking or exiting his radio car when the two suspects were located. He said he believed the two suspects needed to be detained to determine why they were in the area, what they were doing and if they were involved in the Honda's theft or the stripping it. He estimated they had been at the scene for approximately 15 minutes before the two suspects were located, just across the street from the stolen Honda. He felt the two had been concealing themselves, based on their position in their car.

Deputy Bayes said his gun was drawn because he wanted to be prepared for the worst case scenario. He said he could hear the suspects being ordered out of the car when the driver sat up, leaned toward the door and down.

Deputy Rogge said he saw Deputy [redacted] crossing his left peripheral vision as the suspect started the car and the engine revved. Deputy Rogge said he was scared at this point, concerned for everyone's safety. He said the deputies yelled for the suspect to stop but the car began to move forward. He saw Deputy [redacted] in the air and then on the hood of the car. He believed the suspect was about to run Deputy [redacted] over so he fired his weapon at the driver (Martinez). He said he fired twice as the suspect drove across the street. He said he ceased firing when he felt Deputy [redacted] was out of danger.

Deputy Rogge was interviewed on February 17, 2004, by IAB Sergeants Larry Gregg and Larry Landreth at Internal Affairs Bureau regarding specific tactical issues. Prior to the interview, Deputy Rogge was provided an opportunity to read and sign the Force/Shooting Review Admonition. The interview was tape recorded.

IAB NOTE: Just prior to this interview, a walk through of the incident was conducted in the IAB parking lot, specifically designed to determine the deputies placement and movements during the shooting. Photographs were taken at various points during the walk through **(Refer to Exhibit C)**. In the pictures, Deputy Rogge is wearing a blue tee shirt and jeans.

Deputy Rogge said neither he or anyone else at the scene warned Deputy [redacted] that the suspect's car was occupied. He said Deputy [redacted] did not indicate that he was aware that the suspect's car was occupied.

Deputy Rogge said he was under the impression that Deputy [redacted] had intentionally jumped onto the hood of the suspect's car to avoid being struck. He said he felt that Deputy [redacted] life was in danger because it appeared to him that the suspect's wanted to escape at any cost.

Deputy Rogge said Deputy [redacted] had either fallen from the hood or was in the process of doing so, when he (Rogge) fired two rounds from his gun. He said he did not feel that there was a cross-fire situation because Deputy [redacted] was to his left. He said when Deputy Barraclough came into his view, cause by the car moving left, he ceased firing because Deputy Barraclough's came into his line of fire.

Deputy Rogge described his positioning when he fired the two rounds; he said he was bent at the waist slightly, leaning to his right, with his gun pointing at the driver through the rear or front driver's side window. He said he was not sure which window because his arm was bent at the elbow and his hand was below eye-level. He said he was aware that he was near the rear of the car. He said he later learned that his two rounds most likely impacted the trunk area of the suspect's car.

SUSPECT STATEMENT

Suspect Nuno was initially interviewed by Homicide Investigators Guzman and Purcell at Martin Luther King Hospital. The interview were tape recorded **(See Exhibit A, page 60)**. Prior to the interview, Suspect Nuno was advised that he was not under arrest. The interview related to what he had seen and done during the deputy involved shooting.

Suspect Nuno said he had just met Suspect Martinez that day and did not know his name. The two met while hanging out at a friend's home [redacted]. He said he had seen Suspect Martinez once before but the two did not talk on that occasion. Suspect Martinez had arrived at [redacted]'s at approximately 2300 hours. He said that he does not believe Suspect Martinez and [redacted] know each other. He believes Suspect Martinez goes to the home to hang out with "[redacted]," a mechanic that works at [redacted]'s home.

Suspect Nuno said he and Suspect Martinez had talked for several minutes after Suspect Martinez arrived, the two then went to Suspect Martinez' black car to listen to some music. Suspect Martinez had a keys for the car. Suspect Martinez told him that the car was his [redacted]'s.

Suspect Nuno said the police were already there when they went to the car. He later changed his story and said he and Suspect Martinez had been inside the black car for 20-40 minutes prior to the police arriving at their car. He said he and Suspect Martinez were laying on their seats, in a reclined position. He said the police talked to other people on the street and shined their flashlights on the black car before approaching it.

Suspect Nuno said Suspect Martinez appeared intoxicated on something but neither of them had been drinking before going to the car. He said he noticed Suspect Martinez eyes were red, as was his face.

Suspect Nuno said he heard the police say, "Put your hands in the air." Suspect Martinez appeared panicked and said, "I'm gonna start the car. We're gonna leave." Suspect Martinez began to drive away but after he was shot, he lost control of the car and it ended up back in the same spot. Suspect Nuno said he believes he was shot before the car moved.

Suspect Nuno said Suspect Martinez never told him the car was stolen. He said he believes he (Nuno) was shot before Suspect Martinez began driving the car. Suspect Nuno said he never saw the black car strike a deputy.

Suspect Julio Cesar Nuno was later interviewed by Century Detectives Pfeiffer and Schaap on May 1, 2003, at Martin Luther King Hospital. Prior to this interview, Suspect Nuno was advised of his Constitutional Rights and agreed to talk with the detectives without the presence of an attorney.

Suspect Nuno initially claimed complete ignorance of the stolen vehicles or anything about them when he spoke to Century Station detectives. He later changed his story after several inconsistencies in his statement were pointed out.

Suspect Nuno said earlier in the evening, prior to the shooting, his friend (Suspect Martinez, who Suspect Nuno did not know by his true name) was driving a black car when he approached him and "[redacted]." Suspect Martinez asked him if he and [redacted] would help him steal a car. Suspect Nuno agreed and entered the front passenger seat of the car Suspect Martinez was driving. Suspect Martinez told him he had stolen the black car he was driving. He said he had "jacked," the car two weeks earlier.

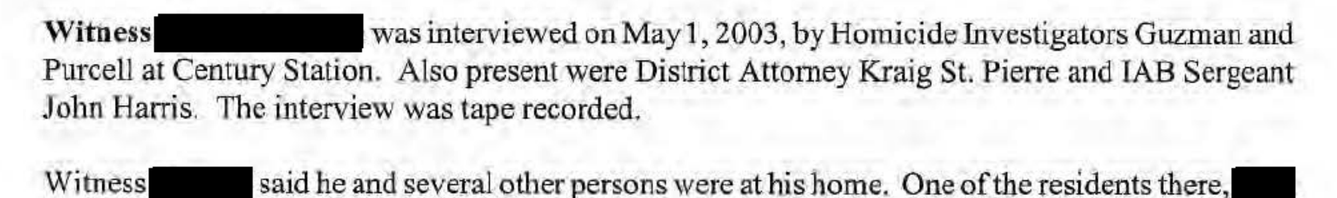
Suspect Nuno said the two drove to a location where Suspect Martinez parked down a block and the two walked to a white Honda which was parked in a driveway. Suspect Martinez used a key to unlock and start the white Honda. Suspect Martinez exited the car and Suspect Nuno entered it, driving it back to 58th Street.

Suspect Nuno said that after they arrived back on 58th Street, the two began stripping stereo items from the white Honda, placing the items in the trunk of the black car, a stereo taken was given by Suspect Martinez to an unknown individual. Suspect Nuno said he assisted as Suspect Martinez removed the lug nuts from the white Honda. After they removed the lug nuts, the two returned to the black car, Suspect Martinez sitting in the driver's seat and Suspect Nuno in the front passenger seat.

Suspect Nuno said that as they were sitting in the black car, the police drove up. Suspect Martinez said, "I'm fittin to leave." Suspect Nuno said he told Suspect Martinez that he wanted out of the car. Suspect Martinez started the car and began driving before Suspect Nuno could exit.

Suspect Nuno said he could not remember anything else because his life flashed in front of his eyes.

WITNESS STATEMENTS



Witness [redacted] was interviewed on May 1, 2003, by Homicide Investigators Guzman and Purcell at Century Station. Also present were District Attorney Kraig St. Pierre and IAB Sergeant John Harris. The interview was tape recorded.

Witness [redacted] said he and several other persons were at his home. One of the residents there, [redacted] had his vehicle stolen earlier that night. Witness [redacted] had witnessed the theft, between 2230 and 2300 hours, through his front window. [redacted] and several of the home's residents left

on foot to look for the car. Witness [redacted] said he and [redacted] drove around in another car searching for the vehicle. Witness [redacted] received a cellular telephone call from his brother, [redacted], at approximately 2300 hours, telling him that the car had been located on 58th Street.

Witness [redacted] said that he and [redacted] drove back to their home to meet the deputies and complete the stolen vehicle reports. They informed the deputies that the car had been located. The deputies asked the two to accompany them to the location on 58th Street.

Witness [redacted] said that when they arrived on 58th Street, he saw the stolen Honda belonging to his friend, [redacted]. There was a male near the car and the deputies spoke to this male in English. Witness [redacted] does not understand English very well so he did not know what was being said. He did hear the male say something to the effect of, "I'm just here looking." Witness [redacted] said that during the ensuing confusion, the male was able to walk away.

Witness [redacted] said he and [redacted] exited the radio and walked to the white Honda, confirming that it was [redacted]' car. Two additional deputies had now arrived. He said the four deputies encountered people inside a car on the opposite side of the street from the white Honda and approximately 75 feet from where he and [redacted] were standing. The deputies were yelling at the occupants of the black car. The deputies had their guns drawn.

Witness [redacted] said the black car started and pulled away from the curb. As the car drove away, the commands of the deputies became more intense, then Witness [redacted] heard gunshots. The black car drove across the street and struck [redacted]' white Honda. Witness [redacted] said he did not actually witness this collision, he heard the noise of the impact and then looked to see that the collision had occurred. The black car then moved in reverse back to nearly its original position. The deputies then approached the car.

Witness [redacted] said that although he did not witness this, he could not believe the suspect vehicle could travel in the directions it did without striking a deputy. He said a deputy was in the path of the suspect's vehicle as it pulled away from the curb.

Witness [redacted] was interviewed on May 1, 2003, by Homicide Investigators Guzman and Purcell at Century Station. Also present were District Attorney Kraig St. Pierre and IAB Sergeant John Harris. The interview was conducted in Spanish and tape recorded.

Witness [redacted]' statement was substantially the same as Witness [redacted]. He added that he had bought the car from Witness [redacted]'s sister approximately one week prior to it being stolen. He said that he and Witness [redacted] had returned to their home and were completing a CHP-180 when Witness [redacted] received the telephone call telling them the car had been found and that suspects were removing the wheels.

Witness [redacted] said when they arrived on 58th Street, he and Witness [redacted] stepped out of the car. It appeared to him that the wheels were missing from his car. A male was walking around his car and deputies contacted him. The male told the deputies that he was a friend of Witness [redacted]. A deputy asked Witness [redacted] if he knew the male. He said he did not, but as he was being asked, the male was able to leave the scene.

Witness [redacted] said he was standing approximately 30-40 feet west of his car, on the sidewalk as the deputies began searching the area.

Witness [redacted] said when the deputies approached the black car, it appeared the occupants had been hiding because their seats were fully reclined. The deputies asked if he knew the individuals in the car, Witness [redacted] said he did not. He said he was able to see the occupants from his position on the street.

Witness [redacted] said the deputies were ordering the occupants out of the black car. It appeared the occupants were not cooperating. The driver of the black car started the engine and the deputies continued to order him to turn the car off and exit. The car began to drive away, striking a deputy in the street as it did so. Witness [redacted] said after the deputy was struck, he heard a lot of gunfire.

Witness [redacted] said he believed there were a total of four deputies in the area when the shooting occurred. He said he did not see much during the shooting because he immediately sought cover.

Witness [redacted] was interviewed on May 1, 2003, by Homicide Investigators Guzman and Purcell at Century Station. Also present were District Attorney Kraig St. Pierre and IAB Sergeant John Harris. The interview was conducted in Spanish and tape recorded.

Witness [redacted]s statement was substantially the same as other witness interviews, he added the following;

Witness [redacted] said he and his father found the stolen Honda on 58th Street, at approximately 0030 hours. He saw three to four people taking items from the car. He continued driving to Central Avenue, where he called his home to tell [redacted] that the car had been found. He believed deputies were at his home when he called there. Witness [redacted] said he drove his car to Central Avenue and awaited the deputies arrival.

Witness [redacted] said when the deputies arrived, he and his father walked onto 58th Street. The people he had seen stripping [redacted]' Honda were no longer present. There was one male standing near the Honda. A deputy asked him if he knew this person but before he could answer the male walked away.

Witness [redacted] walked back to Central Avenue, retrieved his car and then parked it near the black car on 58th Street. He did not see anyone near the black car, or inside it at that time.

Witness [redacted] said he was standing approximately 5-10 feet from the black car with his father, [redacted] and [redacted] when the deputies saw that there were people inside the black car. A deputy asked if he knew the people. He did not.

Witness [redacted] said 2-3 deputies quickly approached the black car. The deputies' movements and actions alerted him that he may be in danger, so he moved 40-50 feet behind the black car. He heard the deputies giving commands to the people inside the black car to show their hands and get out of the car. The deputies had their guns drawn.

Witness [redacted] said as the deputies issued orders, he heard the engine of the black car start. The black car accelerated from the curb and Witness [redacted] heard gunshots. Witness [redacted] said he did not see the black car collide with another vehicle but he did hear it. The black car then reversed its direction and returned to nearly its original position at the south curb.

Witness [redacted] said he never saw the black car strike a deputy or a deputy fall onto the street. He said he did not have a good view from the position he was hiding in. He said he did not hear anything that sounded like a person being struck by a car.

Witness [redacted] was interviewed on May 1, 2003, by Homicide Investigators Guzman and Purcell at Century Station. Also present were District Attorney Kraig St. Pierre and IAB Sergeant John Harris. The interview was conducted in Spanish and tape recorded.

Witness [redacted] s statement was substantially the same as [redacted] interview, he added the following;

Witness [redacted] said he was asked by the deputies if he knew the two individuals inside the black car. He did not. He did not see the black car strike a deputy but imagined that it must have based on the placement of one of the deputies in the street and the path the car was driven.

Witness [redacted] was interviewed on May 1, 2003, by Homicide Investigators Guzman and Purcell at Century Station. Also present were District Attorney Kraig St. Pierre and IAB Sergeant Larry Gregg. The interview was conducted in Spanish and tape recorded.

Witness [redacted] said he was not present when the shooting occurred. He said he had left his home alone, driving around the area looking for [redacted]' stolen car.

Witness [redacted] was interviewed on May 1, 2003, by Homicide Investigators Guzman and Purcell at Century Station. Also present were District Attorney Kraig St. Pierre and IAB Sergeant Larry Gregg. The interview was conducted in Spanish and tape recorded.

Witness [redacted]. said he arrived after the shooting. He was told by his brother, [redacted], that the suspect's vehicle had hit a deputy and then the shooting started.

Witness [redacted] was interviewed on May 1, 2003, by Homicide Investigators Guzman and Purcell at Century Station. Also present were District Attorney Kraig St. Pierre and IAB Sergeant John Harris. The interview was conducted in Spanish and tape recorded.

Witness [redacted] said he was not present for the shooting. He had been driving alone when he received a call from his brother that the car had been found. By the time he arrived on 58th Street, the shooting had already occurred.

Witness [redacted] was interviewed on May 1, 2003, by Homicide Investigators Guzman and Purcell at his home. Also present were District Attorney Kraig St. Pierre and IAB Sergeant Larry Gregg. The interview was tape recorded.

Witness [redacted] said he was at his home (on 58th Street) when the shooting occurred. He was in the rear yard with two friends, [redacted]," and [redacted]."

IAB NOTE: Attempts were made by Homicide investigators to interview "[redacted]," and "[redacted]" Those attempts were unsuccessful.

Witness [redacted] said he knows Suspect Nuno. He said Suspect Nuno did not come to his home on the night of the shooting. He did see Suspect Nuno sitting in a car with another male (Suspect Martinez) at approximately 2300 hours. He saw the two walking back and forth from the black car they were sitting in, to a white car parked across the street. He said there was also a third male with them that he did not recognize. Witness [redacted] said, "I guess they were doing their business."

Witness [redacted] said he believed the three were about to take the car. He said he didn't know Suspect Nuno was a car thief but did see all three "messing with the car." Witness [redacted] asked Suspect Nuno what he was doing. Suspect Nuno replied, "You know." Witness [redacted] said he then went to his house.

Witness [redacted] said he heard arguing outside. He heard a deputy yelling, "Freeze!" He went outside and saw a male, white, bald deputy on the east side of his home. The deputy shined his flashlight at Witness [redacted] and Witness [redacted] went back inside his home. Approximately five minutes later, Witness [redacted] heard the shooting occur but did not see it happen. He said his friend, [redacted], did witness the shooting.

Witness [redacted] was asked why Suspect Nuno would say that he was at his ([redacted]'s) home prior to the incident. Witness [redacted] said Suspect Nuno would not say such a thing because it didn't happen.

Witness [redacted] said his father does not allow anyone to work on vehicle's at his home.

IAB NOTE: The remainder of the witnesses listed on the Deputy Involved Shooting form heard shots but did not witness the shooting, or did not see or hear anything.

MISCELLANEOUS/INVESTIGATORS OBSERVATIONS:

During the walk-through of the incident, investigators noted that there appeared to be no cross-fires between the deputies.